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## Shrinking Autonomy for Tatarstan and Gagauzia: The Perils of Flexible Institutional Design

Two and a half decades after the Soviet Union's disintegration, forms of territorialized ethnicity continue to feature prominently in arrangements for the management of ethno-cultural diversity in the region. This chapter focuses on two forms of ethnicity-based territorial autonomy in post-Soviet states: the Republic of Tatarstan in Russia, and the Autonomous Territorial Unit of Gagauzia (*Gagauz Yeri* – hereinafter Gagauzia) in Moldova. Russia and Moldova's common Soviet past has meant the direct application of Soviet nationalities policy,<sup>1</sup> leading to significant legacies, particularly in the shape of ethno-federalism and notions of 'institutionalized multinationality'.<sup>2</sup> And, while the circumstances surrounding the establishment of the Republic of Tatarstan and Gagauzia are highly dissimilar, the two regions also display some commonalities in the dynamics that have shaped the format and levels of territorial autonomy in the post-Soviet period. Crucially, both entities have been confronted by an incremental reduction of their autonomy since the 1990s. The conditions for the undermining of territorial autonomy can be explained in light of institutional legacies, along with prevalent societal attitudes to legality – in the management of inter-ethnic relations and more generally – interacting with contemporary political developments in the two countries. The limited effectiveness of territorial autonomy can then be situated in the context of a prevalence of symbolic law and practice in diversity management: (post-)Soviet institutions have led to autonomy arrangements that have, in many cases, avoided violent conflict, but which, it is argued, have also been subject to manipulation in disregard of the rule of law, resulting in decreased regional autonomy. The 'stability' thus ensuing is one that rests on shaky, contradictory foundations.

This chapter will: first, outline the background to autonomy arrangements for Tatarstan and Gagauzia; second, it will examine the interplay of legality and non-legality (and formal and informal practices) in the management of diversity in the region; third, it will analyse the reduction in autonomy in Tatarstan and Gagauzia, linking it to institutional legacies in the regulation of majority-minority (and centre-regions) relations.

### Borders and Sub-State Ethnic Mobilisation

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<sup>1</sup> 'Nationality' is used in this chapter in the sense of the Russian *national'nost'* – a term akin to 'ethnicity'.

<sup>2</sup> R. Brubaker, "Nationhood and the National Question in the Soviet Union and post-Soviet Eurasia: An Institutionalist Account", *Theory and Society*, 23(1) (1994), 47–78; R. Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge: CUP, 1996).

The first thing to note in examining territorial autonomy in the post-Soviet space is that, at the time of the Soviet Union's dissolution, the principle of *uti possidetis* was unquestionably applied.<sup>3</sup> Thus, 15 new states emerged, and were recognized by the international community, on the basis of the borders of the former Soviet Union republics: among these, the former Moldavian Soviet Socialist Republic (MSSR) transitioned to the state of Moldova, while the Russian Soviet Federative Socialist Republic (RSFSR) became the Russian Federation. Thus, while the boundaries of the Soviet Union's territorial units might have been, in some instances, drawn arbitrarily, in the aftermath of the Soviet Union's collapse the principle of sacrosanctity of borders still prevailed.

Post-Soviet Russia and Moldova clearly found themselves in very different positions: if Russians had to face the 'loss' of what they considered much of 'their' territory – with (ethnic Russian) compatriots becoming minorities in newly-independent states – Moldova was freed from the control of the Soviet government in Moscow. As Chisinau became the new centre of gravity for political activity, Moldovan citizens underwent shifts in the configuration of their identity, with the emergence of new inter-ethnic dynamics.<sup>4</sup> Given that, as noted, Soviet borders remained intact, ethnic diversity *within* post-Soviet states had to be managed through supplementary (domestic) territorial, or non-territorial, arrangements, and coexist with state-building efforts.<sup>5</sup> Thus, the expression of ethnic identity has taken place at two levels: that of the state (through 'nationalising',<sup>6</sup> state-building dynamics) and the sub-state level (in regions such as Gagauzia and Tatarstan). These two parallel processes have created complex dynamics; nevertheless, in both Russia and Moldova (state and sub-state) ethnic mobilisation was most acute in the years immediately following the Soviet Union's collapse, and later subsided.<sup>7</sup> The intensity of 'nationalising' dynamics in Moldova, and the response from groups striving to resist it, has similarly decreased since the mid-1990s, while post-Soviet Russia has attempted to promote a process of 'de-ethnification', as will be seen below.

Neo institutionalists have explained developments in the late 1980s and 1990s from the point of view of institutions, and the impact they have had on perceptions, including *self*-perception and identity formation.<sup>8</sup> (Soviet) ethnic institutions, and particularly ethno-territorial

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<sup>3</sup> J. Hughes and G. Sasse, "Comparing Regional and Ethnic Conflicts in Post-Soviet Transition States", in J. Hughes and G. Sasse (eds), *Ethnicity and Territory in the Former Soviet Union: Regions in Conflict* (London and Portland, OR: Frank Cass, 2002), 1-35, at 18.

<sup>4</sup> See, for example, C. King, *The Moldovans: Romania, Russia, and the Politics of Culture* (Stanford: Hoover Press, 1999); and M.H. Ciscel, "Language and Identity in Post-Soviet Moldova", in B. Preisler, A. Fabricius, H. Haberland, S. Kjærbeck and K. Risager (eds), *The Consequences of Mobility* (Roskilde: Roskilde University, 2005), 106–119.

<sup>5</sup> Hughes and Sasse (2002, "Comparing ..."), *supra*, at 2.

<sup>6</sup> In the sense of Brubaker's 'nationalizing state' - one whose 'core nation' considers itself an 'unrealized' nation-state because of discrimination before independence, and thereby aims at remedying this shortcoming and advance on the path towards nation-statehood. Brubaker (1996), *supra*; and R. Brubaker, "Nationalizing States Revisited: Projects and Processes of Nationalization in Post-Soviet States", *Ethnic and Racial Studies*, 34(11) (2011) 1785-1814.

<sup>7</sup> With regard to Russia, see E. Giuliano and D.P. Gorenburg, "The Unexpectedly Underwhelming Role of Ethnicity in Russian Politics, 1991-2011", *Demokratizatsiya*, 20(2) (2012) 175–188. On Moldova, see, generally, King, *supra*.

<sup>8</sup> Brubaker (1994; 1996), *supra*; V. Bunce, *Subversive Institutions: The Design and the Destruction of Socialism and the State* (Cambridge: CUP, 1999).

arrangements, became the basis for ethnic mobilisation<sup>9</sup> – both in the case of Moldova (as it sought a new place for itself within the region as an independent state), and inside Russia. The Soviets had forged a link between ethnicity and territory, by ‘assigning’ territories to the Soviet Union’s larger ethnic groups – which could easily be perceived as embryonic (nation-)states.<sup>10</sup> Ethnicity has since been employed as a form of socio-economic (sometimes political) capital, with representatives of titular nationalities advancing claims on the grounds of ethnicity; moreover, the fact that ethnicity became embedded in the Soviet organisation of society, through the establishment of multiple ethnic institutions, led to what Brubaker calls the ‘institutionalization of nationhood’,<sup>11</sup> which deepened ethnic consciousness in Soviet citizens.

At the same time, in examining the trajectory of developments from the 1990s to the early 2000s, Hughes and Sasse stress that institutions – particularly Soviet institutional legacy for the management of ethnic diversity – *also* played a role in furthering the conditions for conflict or stability.<sup>12</sup> In fact, stability has generally prevailed: in the post-Soviet sphere there have been relatively few instances of eruption of violence, considering the extremely high levels of ethno-linguistic diversity.<sup>13</sup> The early post-Soviet period, Hughes and Sasse argue, was characterised by a process of ‘de-institutionalization’ and, subsequently, one of ‘re-institutionalization’, or the ‘reassembly of the inherited institutional legacy’, during which emerging political scenarios in new states frequently involved flexible arrangements that succeeded in eschewing conflict.<sup>14</sup> In particular, the two authors contend that Soviet ‘institutionalized multinationality’<sup>15</sup> played a major role not only in the Soviet Union’s collapse, but also in post-Soviet state-building, by constraining nationalising projects (attempts to effectively create nation-states). Indeed, if Soviet ethnic institutions sharpened ethnic consciousness through the institutionalisation of nationhood, the ensuing nationalist sentiments were also forced to coexist with institutionalised multinationality – with narratives of a Soviet Union hosting multiple ethnic groups united by common goals. This led to a tension between multinationality and self-determination, which is still apparent today: thus,

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<sup>9</sup> D.P. Gorenburg, *Minority Ethnic Mobilization in the Russian Federation*. Cambridge: CUP, 2003); R.G. Suny, *The Revenge of the Past: Nationalism, Revolution, and the Collapse of the Soviet Union* (Stanford, CA: Stanford University Press, 1993).

<sup>10</sup> This facilitated the formation of newly-independent states along the Soviet borders. See for example, Bunce, *supra*, at 84-86.

<sup>11</sup> This institutionalisation occurred at two levels: the ‘territorial and political’ (primarily in the shape of ethno-federalism), *and* the ‘ethnocultural and personal’ – in the sense that ethnicity, which was recorded in all official documents and could affect education and employment opportunities, became a primary form of identification, with an ‘*obligatory ascribed status*’. Brubaker (1996), *supra*, at 18 (italics in original); see also Gorenburg, *supra*; and Y. Slezkine, “The USSR as a Communal Apartment, or How a Socialist State Promoted Ethnic Particularism”, *Slavic Review*, 53 (2) (1994), 413-452.

<sup>12</sup> Hughes and Sasse (2002, “Comparing ...”), *supra*, and J. Hughes and G. Sasse, “Conflict and Accommodation in the Former Soviet Union: The Role of Institutions and Regimes”, in J. Hughes and G. Sasse (eds), *Ethnicity and Territory in the Former Soviet Union: Regions in Conflict* (London and Portland, OR: Frank Cass, 2002), 220-240.

<sup>13</sup> B. Bowring, “The Russian Constitutional System: Complexities and Asymmetry”, in M. Weller (ed.) *Asymmetrical State Design as a Tool in Ethnopolitical Conflict Resolution* (Philadelphia: University of Pennsylvania Press, 2010), 48-74.

<sup>14</sup> Hughes and Sasse (2002, “Conflict...”), *supra*, at 232.

<sup>15</sup> See Brubaker (1996), *supra*, especially at 23ff.

for example, the Constitution of the Republic of Tatarstan<sup>16</sup> refers in its preamble both to ‘Tatarstan’s multinational people’ and ‘the Tatar people’. Similarly, the 1993 Russian Constitution promulgates the sovereignty of the Russian Federation across the entire territory (Article 4), in tandem with the self-determination of the peoples of Russia (preamble and Article 5(3)).

Post-Soviet processes of ‘de-institutionalization’ and, subsequently, of ‘re-institutionalization’ involved a form of institutional malleability, with a reliance on both formal and informal means of power-sharing; it is the resulting negotiations, which employed pliable (often informal) rules, that have in numerous occasions succeeded in pre-empting direct conflict, as in the cases of Gagauzia and Tatarstan (unlike two other notable cases in Moldova and Russia: Transnistria and Chechnya).<sup>17</sup> At the same time, one can argue that the flexibility of post-Soviet arrangements also results in their being devoid of legal guarantees – with attitudes to legality that can also be at least partially regarded as a Soviet legacy.<sup>18</sup> Thus, while these arrangements have provided relative stability, they have not been buttressed by the rule of law, and as such have been vulnerable to manipulation. In examining the period 2000-2015 in Tatarstan and Gagauzia, the same (post-)Soviet institutions, governed by the same unwritten rules, have circumvented violent conflict but also created the conditions for reduced territorial autonomy.

### Legality and Non-Legality

International standards on minority rights stress the importance of legal guarantees in the protection of minority rights – with regard to, *inter alia*, the promotion of minorities’ identity,<sup>19</sup> protection from discrimination<sup>20</sup> and the functioning of consultative bodies.<sup>21</sup> Although the Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM)<sup>22</sup> does not directly guarantee the right of persons belonging to national minorities to (territorial or cultural) autonomy,<sup>23</sup> the Advisory Committee on the FCNM (ACFC) has pointed out that, in cases in which autonomy arrangements have been established, ‘they can foster a more effective participation of persons belonging to national minorities in various areas of life’.<sup>24</sup> For this reason, when legislation in this sphere is compiled or amended, ‘[i]t is important that persons belonging to national minorities be

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<sup>16</sup> Republics can adopt their own constitutions and state languages (Article 5(2) and 68(2) of the Russian Constitution).

<sup>17</sup> The reasons behind these conflicts are outside the scope of this chapter.

<sup>18</sup> On this issue, see K. Hendley, “Are Russia’s Judges Still Soviet?” *Post-Soviet Affairs*, 23(3) (2007) 240-274.

<sup>19</sup> On the need for strong legal guarantees to preserve and develop the ‘essential elements’ of national minorities’ identity, see for example, Switzerland, ACFC, Second Opinion on Switzerland, 2 September 2008, ACFC/OP/II(2008)002, §67; 80. Legal guarantees should be implemented ‘through regular dialogue’ with the relevant minority groups (§17).

<sup>20</sup> ACFC, ‘Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs’, 27 February 2008, ACFC/31DOC(2008)001, §14, 33-35. See also High Commissioner on National Minorities (HCNM), ‘Lund Recommendations on the Effective Participation of National Minorities in Public Life’, on self-governance arrangements and legal guarantees, §22.

<sup>21</sup> ACFC, (2008, ‘Commentary...), *supra*, §116.

<sup>22</sup> Moldova became a state party of the FCNM in 1996 and Russia in 1998.

<sup>23</sup> ACFC, (2008, ‘Commentary...), *supra*, §133.

<sup>24</sup> *Ibid*, §134.

involved and that their views be duly taken into account'.<sup>25</sup> The 1999 Lund Recommendations<sup>26</sup> go further by stating that '[e]ffective participation of minorities in public life may call for nonterritorial or territorial arrangements of self-governance or a combination thereof';<sup>27</sup> the Recommendations refer to the importance of balancing uniform, state-wide policies in some areas (such as defence and foreign affairs), and devolution in others.<sup>28</sup> The shifting of legislative and executive functions from the centre to regions, based on the principle of subsidiarity, enhance the opportunities for minorities to autonomously devise policies on matters affecting them – such as education, culture and minority language use.<sup>29</sup>

The ACFC has further stressed that a state's constitutional design 'can have a decisive impact on the effective participation of persons belonging to national minorities in public life'.<sup>30</sup> Yet one may look more broadly at 'institutional design' (as Kössel points out in his contribution to this volume): while necessitating strong legal guarantees, institutional design in the regulation of majority-minority relations is not solely regulated by law, as relevant policies also unfold *outside* legal frameworks. At the same time, in both formal and informal arrangements, a commitment to implement relevant law and policy is paramount for their effectiveness.

In the case of implementation of international standards of minority rights, the phenomenon of legal transplantation – the transposition of norms from an international system to a domestic one – further comes into play. The extent to which an exogenous system can be successfully 'transferred' is linked to a multitude of factors. In examining these processes, it has been argued that the legislation amounts to a 'mirror of society',<sup>31</sup> and thus shapes around people and existing circumstances. According to this interpretation, the transplantability of norms is likely to occur in the presence of similarities between the donor and recipient states. To this view one can oppose that which sees norms' ability to transcend borders, and be favourably received in countries with very dissimilar legal cultures and socio-political realities.<sup>32</sup> Nevertheless, in the case of Russia it has further been argued that a number of human rights principles enshrined in international instruments such as the European Convention on Human Rights are not novel to Russia but they have rather constituted an integral part of the Russian legal tradition.<sup>33</sup> Similarly, principles in Soviet and post-Soviet

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<sup>25</sup> Ibid, §136.

<sup>26</sup> HCNM, *supra*.

<sup>27</sup> Ibid, §14.

<sup>28</sup> Ibid, §15.

<sup>29</sup> Ibid, §19-20.

<sup>30</sup> ACFC, (2008, 'Commentary...), Preliminary Remarks. In turn, minority involvement in shaping government policies, or the autonomy to determine their own policies in specific areas, can significantly contribute to the accommodation of minority interests. See, for example, R. Hofmann, "Political Participation of Minorities" *European Yearbook of Minority Issues*, 6 (2006), 5-17.

<sup>31</sup> W. Ewald, "Comparative Jurisprudence (II): The Logic of Legal Transplants", *The American Journal of Comparative Law*, 43(4) (1995) 489-510, at 492. See also O. Kahn-Freund, "On Uses and Misuses of Comparative Law", *The Modern Law Review*, 37(1) (1974) 1-27.

<sup>32</sup> A. A. Watson, *Legal Transplants: An Approach to Comparative Law* (Edinburgh: Scottish Academic Press, 1974).

<sup>33</sup> B. Bowring, "Rejected Organs? The Efficacy of Legal Transplantation, and the Ends of Human Rights in the Russian Federation", in E. Özücü (ed), *Judicial Comparativism in Human Rights Cases* (London: British Institute of International and Comparative Law, 2003), 159-181.

programmes to promote minority languages and cultures resemble those found in the Council of Europe's FCNM and European Charter for Regional or Minority Languages. As such they are not necessarily necessitating to be 'transferred' from 'the West'.

Yet specific attitudes to legality tend to restrict the practical application of these principles in the post-Soviet space, particularly given the limited independence of the judiciary. Indeed, the post-Soviet judiciary has at times been subjected to the interests of the executive or other forces.<sup>34</sup> Hendley contends, with reference to Russia, that levels of freedom of the judiciary vary depending on whether a case is politically controversial or impacting upon the interests of powerful actors.<sup>35</sup> In some instances judges have been influenced in their decisions by 'instructions' handed down over the telephone, in a phenomenon known as 'telephone justice'.<sup>36</sup> It has further been argued that in countries such as Russia (neither consolidated democracies nor consolidates autocracies), the 'politicization of justice' is rife, as courts are incorporated into games of political competition, with 'strategic pressure' being applied to courts.<sup>37</sup> Moreover, while international law and courts are removed from the day-to-day politics of individual countries, domestic law is situated within particular political contexts, which can (if specific safeguards are not in place) spill over into the judicial sphere.

In Moldova, like in Russia, forms of regional autonomy, as well as the promotion of ethnic diversity, are guarantees by law – yet despite their legal entrenchment informal practices overlap with formal norms in a range of socio-political dynamics,<sup>38</sup> including the management of inter-ethnic relations.<sup>39</sup> Strong, centre-driven impulses bend legal provisions, with either a loose interpretation of (often unclear) legal provisions, or their direct contravention. For Tatarstan and Gagauzia legal safeguards have been inadequate in protecting territorial arrangements, which remain secondary to political priorities in Moscow

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<sup>34</sup> A. Czarnota, M. Krygier, W. Sadurski (eds), *Rethinking the Rule of Law after Communism* (Budapest: Central European University Press, 2005); Hendley, *supra*; A. Ledeneva, *How Russia Really Works* (Ithaca, NY: Cornell University Press, 2006); A. Trochev, *Judging Russia: Constitutional Court in Russian Politics, 1990-2006* (Cambridge: CUP, 2008); P. Solomon, "Threats of Judicial Counterreform in Putin's Russia", *Demokratizatsiya*, 13(3) (2005) 325-345; F. Feldbrugge, *Russian Law: The End of the Soviet System and the Role of Law* (Dordrecht: Martinus Nijhoff, 1993); International Commission of Jurists, *Reforming the Judiciary in Moldova: Prospects and Challenges* (Geneva: ICJ, 2013).

<sup>35</sup> Hendley, *ibid*, at 267.

<sup>36</sup> V. Gel'man, "The Unrule of Law in the Making: The Politics of Informal Institutional Building in Russia", *Europe-Asia Studies*, 56 (7) (2004) 1021-1058; M. Krasnov, "The Rule of Law", in M. McFaul, N. Petrov, and A. Ryabov (eds), *Between Dictatorship and Democracy: Russian Post-Communist Political Reform* (Washington, D.C.: Carnegie Endowment for International Peace, 2004), 195-212; A. Ledeneva, "Behind the Facade: 'Telephone Justice' in Putin's Russia", in *Dictatorship or Reforms? The Rule of Law in Russia* (London: The Foreign Policy Centre, 2006), 24-36; A. Ledeneva, "Telephone Justice in Russia", *Post-Soviet Affairs*, 24 (4) (2008) 324-350.

<sup>37</sup> M. Popova, *Politicized Justice in Emerging Democracies: A Study of Courts in Russia and Ukraine*. Cambridge: CUP, 2012), at 3.

<sup>38</sup> D. J. Galligan and M. Kurkchian (eds), "Law and Informal Practices: The Post-Communist Experience" (Oxford: OUP 2003); Ledeneva (2006; 2008), *supra*; P. Solomon, *supra*; and P. Solomon, "Assessing the Courts in Russia: Parameters of Progress under Putin", *Demokratizatsiya*, 16 (1) (2008) 63-74; P. Solomon, "Law in Public Administration: How Russia Differs", *Journal of Communist Studies and Transition Politics*, 24 (1) (2008) 115-135.

<sup>39</sup> O. Protsyk and V. Rigamonti, "Real and 'Virtual' Elements of Power Sharing in the Post-Soviet Space: The Case of Gagauzian Autonomy" *Journal of Ethnopolitics and Minority Issues in Europe*, 6(1) (2007); F. Prina, *National Minorities in Putin's Russia: Diversity and Assimilation* (London: Routledge, forthcoming - 2015).

and Chisinau. These circumstances have paved the way for the reduction of regional autonomy.

## Reducing Territorial Autonomy

Most concessions in both Tatarstan and Gagauzia were made shortly following the Soviet Union's collapse, and were subsequently reduced through a combination of means. The delimitation of autonomy has been at two levels: first, it has concerned opportunities of independent decision-making in autonomous entities themselves; second, it has affected the exercise of participatory rights of representatives of Tatarstan and Gagauzia in Moscow and Chisinau respectively, with regard to policy-making affecting the autonomous regions.

### Tatarstan

In 1990-91 a process known as the 'parade of sovereignties' took place, with a 'cascade of declarations of sovereignty' of Soviet republics and other administrative units.<sup>40</sup> Yet Tatarstan distanced itself from other ethnic republics<sup>41</sup> for its assertiveness. Together with Chechnya, Tatarstan was the only republic that refused to sign the 1992 Federation Treaty on the division of responsibilities between the centre and Russia's constituent units. In a referendum held on 21 March 1992, 62% of the republic's population (both ethnic Tatars and Russians) supported sovereignty.<sup>42</sup> Tatarstan's rejection of the Federation Treaty paved the way for the conclusion of a bilateral power-sharing treaty in February 1994,<sup>43</sup> which foresaw central, shared and regional competences, but also Tatarstan's control over much of its natural resources.

Tatarstan, Bashkortostan and Sakha/Yakutia were the three ethnic republics with the greatest bargaining powers given their wealth of natural resources (particularly oil in the case of Tatarstan). Tatars are also numerically the largest national minority in Russia.<sup>44</sup> As a result, Tatarstan was in a favourable position to negotiate advantageous arrangements.<sup>45</sup> And, with the Soviet Union's disintegration, Tatarstan initiated its own 'nationalising' policies within the Republic of Tatarstan: it promoted the Tatar language and culture, by substantially

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<sup>40</sup> J. Kahn, "The Parade of Sovereignties: Establishing the Vocabulary of the New Russian Federalism", *Post-Soviet Affairs*, 16(1) (2000), 58-89. Tatarstan (then the Tatar Autonomous Soviet Socialist Republic) declared its sovereignty on 30 August 1990 – already one year before the Soviet Union's dismemberment.

<sup>41</sup> Republics are essentially ethnicity-based, although they are referred to in the Russian Constitution simply as 'republics', rather than 'ethnic republics'. In early 2014 Russia had 83 subjects, or territorial units, comprising: 21 ethnic republics, 46 oblasts, nine krai, four autonomous okrugs, two federal cities (Moscow and St Petersburg) and one autonomous oblast (Jewish). The number of subjects rose to 85 with the annexation of Crimea by Russia, and the adoption of Federal Constitutional Law 'On the Republic of Crimea's Accession to the Russian Federation and the Formation of New Subjects of the Russian Federation - the Republic of Crimea and Sevastopol, City of Federal Significance', No.6-FKZ, 21 March 2014.

<sup>42</sup> Bowring (2010), *supra*.

<sup>43</sup> Treaty of the Russian Federation and the Republic of Tatarstan 'On the Delimitation of Areas of Jurisdictions and Mutual Delegation of Powers between the State Organs of the Russian Federation and the State Organs of the Republic of Tatarstan'.

<sup>44</sup> According to last census, in 2010 there were 5.3 million Tatars in the Russian Federation. Data available from: [http://www.gks.ru/free\\_doc/new\\_site/perepis2010/croc/perepis\\_itogi1612.htm](http://www.gks.ru/free_doc/new_site/perepis2010/croc/perepis_itogi1612.htm) (accessed 22 April 2015).

<sup>45</sup> J. Hughes, "Managing Secession Potential in the Russian Federation", in J. Hughes and G. Sasse (eds), *Ethnicity and Territory in the Former Soviet Union: Regions in Conflict* (London and Portland, OR: Frank Cass, 2002), 36-68.



expanding Tatar-language education.<sup>46</sup> Tatarstan won a significant victory in the Russian Constitutional Court in 1994, when the latter confirmed the constitutionality of the provision in Tatarstani law that Tatar and Russian are to be taught ‘in equal measure’ within the republic.<sup>47</sup>

Centre-periphery relations in Russia have not solely been shaped by ethnicity-based considerations: some leaders of non-ethnic regions have also been assertive.<sup>48</sup> Even in a republic such as Tatarstan, with the majority of the (republic’s) population affiliated to the titular nationality, ethnic and regional interests have overlapped: titulars and ethnic Russians have shared an interest in retaining control over Tatarstan’s natural resources.<sup>49</sup> At the same time, the complexities posited by ethnic federalism, and a legacy of institutionalised ethnicity, have led to attempts at partial ‘de-ethnification’ of the post-Soviet socio-political sphere. Russian (internal) passports no longer contained the requirement to indicate one’s ethnicity, which had been the case for Soviet passports and various other official documents; neither were special measures adopted to guarantee the representation of minorities in the public service and elected bodies. In 2006 the Russian government spelled out in a report to the ACFC that it was pursuing a ‘policy of de-ethnization of [the] domestic political scene’, in light of the fact that ‘national and ethno-cultural issues blend perfectly in the concept of basic civil rights’.<sup>50</sup> The federal centre has also distanced itself from territorialised ethnicity by adopting a law on (non-territorial) national cultural autonomy (NCA) in 1996.<sup>51</sup> The law, and official pronouncements accompanying it, made clear that it would not replace, but complement, territorial arrangements: indeed, the entrenchment of ethno-federalism would likely cause any attempt to abolish ethnic republics to be met with widespread protests, and possibly outbreaks of violence.<sup>52</sup> The NCA system would rather cater for the needs of non-

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<sup>46</sup> K. Zamyatin, “From Language Revival to Language Removal? The Teaching of Titular Languages in the National Republics of Post-Soviet Russia” *Journal on Ethnopolitics and Minority Issues in Europe*, 11(2) (2012) 75-102.

Tatar is an official language within Tatarstan. The Russian Constitution states that republics have the right to have their own and include official languages (‘state languages’ of the republics) alongside Russian (Article 68(2)), as well as their own (republican) constitutions (Article 5(2)).

<sup>47</sup> RCC, Judgement No. 16-P, 16 November 2004.

<sup>48</sup> As, for example, in the case of Eduard Rossel’, governor of Sverdlovsk oblast (1995-2009), who called for more powers for non-ethnic regions. See G. Easter, “Redefining Centre-Regional Relations in the Russian Federation: Sverdlovsk Oblast”, *Europe-Asia Studies* 49 (1997) 617-635.

<sup>49</sup> L. Hagendoorn, E. Poppe, and A. Minescu, “Support for Separatism in Ethnic Republics of the Russian Federation” *Europe-Asia Studies*, 60(3) (2008) 353-373; H. Oversloot, “Reordering the State (without Changing the Constitution): Russia under Putin’s Rule, 2000-2008”, *Review of Central and East European Law*, 32 (2007) 41-64; and H. Oversloot, “The Homogeneity of Russia, or the Remains of an Empire (Federalism and Regionalism)”, in O. Protsyk and B. Harzl (eds), *Managing Ethnic Diversity in Russia* (Abingdon: Routledge, 2013), 87-110. As noted, both ethnic Tatars and Russians supported Tatarstan’s sovereignty in the 1992 referendum.

<sup>50</sup> “Comments of the Government of the Russian Federation on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities by the Russian Federation”, GVT/COM/II(2006)006, 11 October 2006. In tandem with de-ethnifying moves, some groups espouse radical ethnic Russian nationalism, while the more moderate official patriotism, ostensibly of a civic nature, is however not devoid of ethnic attributes. See Prina (2015), *supra*.

<sup>51</sup> Law ‘On National Cultural Autonomy’, No. 74-FZ, 17 June 1996.

<sup>52</sup> V.A. Tishkov, *Strategiya i Mekhanizmy Natsional’noi Politiki v Rossiiskoi Federatsii: Materialy Nauchno-Prakticheskoi Konferentsii, Lipki, 1992* [Strategy and Mechanisms of National Policy in the Russian Federation: Materials of an Academic-Practical Conference, Lipki, 1992] (Moscow: Nauka, 1993), at 18.

titular ethnic groups (without 'their own' territory), as well as members of titular minorities residing outside 'their own' ethnic regions; nevertheless, the law's adoption clearly indicated a drive to shift the focus in the management of inter-ethnic relations from territoriality to non-territorial arrangements.<sup>53</sup>

In the period immediately following the Soviet Union's collapse, in tandem with the mixing of Soviet and post-Soviet institutional arrangements, a major role in containing separatism was further played by Yeltsin's presidential system and patrimonial networks.<sup>54</sup> They provided a combination of informal rules, institutional malleability and, as Hughes and Sasse put

it, the 'personalization of the bargaining process',<sup>55</sup> with the conclusion of *ad hoc* bilateral agreements between Yeltsin himself and individual leaders of regions.<sup>56</sup> In this context, the skilful manoeuvring of Tatarstan's president Mintimer Shaimiev, and his balancing act between moderate nationalism/regionalism and cooperation with the centre contributed in pre-empting conflict.<sup>57</sup> By 1996 several other subjects besides Tatarstan had negotiated bilateral treaties (as well as adopting legislation regardless of whether it was in line with federal legislation). Thus, many regions displayed a predilection for the flexibility of bilateral treaties rather than the uniformity of the regulations contained in the 1992 Federation Treaty.

Tatars remain Russia's national minority in the strongest position. Two million Tatars reside in the Republic of Tatarstan, which makes Tatars a numerical majority within the republic (53.2% Tatars against 39.7% Russians).<sup>58</sup> Overall the Russian Federation in 2010 had a population of 5.3 million Tatars. Moreover, Tatars have a traditional presence in Russia, their history having unfolded over centuries on the territory of the present Russian Federation.<sup>59</sup> Yet, despite its position of strength and assertiveness compared to other ethnic republics, Tatarstan's autonomy has been curtailed by strong centralising impulses under the Putin leadership. If the powers offered by Russia's presidentialism were fully used by Yeltsin to conclude bilateral agreements with regional leaders, Putin also made use of his presidential powers through legal and paralegal means, in order to recentralise the Federation. He pursued a project of legal and administrative uniformity to harmonise federal and regional legislation. This policy aimed at counteracting rampant decentralisation and the risk of a disintegrating

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<sup>53</sup> Tatars have embraced this system, thereby combining territoriality with non-territoriality in the promotion of the cultural rights: while pursuing autonomous arrangements within the Republic of Tatarstan, they have established a high number of NCAs (at the local, regional and federal levels) representing the interests of Tatars outside Tatarstan.

<sup>54</sup> Hughes and Sasse (2002, "Comparing ..."), *supra*, at 27.

<sup>55</sup> *Ibid*, at 28. Yet the authors further note that it was these same factors that also triggered the crisis in Chechnya, which was characterised by 'irreconcilable personal animosities between Yeltsin and Chechen leader D. Dudaev'. *Ibid*.

<sup>56</sup> Hughes and Sasse, (2002. "Conflict..."), *supra*, at 232.

<sup>57</sup> C. Williams, "Tatar Nation Building since 1991: Ethnic Mobilisation in Historical Perspective", *Journal on Ethnopolitics and Minority Issues in Europe*, 10(1) (2011) 94-123; E. Albina, "The External Relations of Tatarstan: In Pursuit of Sovereignty, or Playing the Sub-Nationalist Card?", *The Hague Journal of Diplomacy*, 5(2010) 99-124; Kahn, *supra*, at 70 ; Bowring (2010), *supra*.

<sup>58</sup> 2010 census, *supra*.

<sup>59</sup> See for example A. Kappeler, *The Russian Empire: A Multiethnic History*. Harlow: Longman, 2001; Gorenburg, *supra*.

federation, which had been brought about by the proliferation of bilateral treaties and incoherent legislation.<sup>60</sup>

A series of measures were implemented to this end, which have altered centre-periphery arrangements. First, in 2000 the leaders of regions were excluded from the Federation Council, the Russian Parliament's upper chamber, to be replaced by their representatives.<sup>61</sup> Second, in the same year Russia's administrative units were grouped into seven presidential okrugs.<sup>62</sup> Presidential envoys were tasked with the supervision of these 'super-regions', which were thereby more firmly connected to the centre.<sup>63</sup> Third, Putin replaced gubernatorial elections with appointments.<sup>64</sup> The latter were first introduced following the 2004 terrorist act in Beslan (North Ossetia):<sup>65</sup> the presidential appointment of leaders of Russia's subjects was justified in a securitised context, which, it was argued, mandated a stronger control from the centre over the administration of the country for the purposes of containing terrorism.<sup>66</sup> This unconstitutional change had far-reaching political consequences and as well as symbolic significance. Shaimiev, the influential president of Tatarstan, was initially reconfirmed in his position; however, a new president was later appointed, Rustam Minnikhanov (formerly the Prime Minister of Tatarstan), Shaimiev having left in 2010 the presidency he had held since 1991.<sup>67</sup> In addition to not having the same political weight as a long-term leader such as Shaimiev, the system of appointment has meant less security in his position for Minnikhanov.<sup>68</sup> Since the initial introduction of the system of gubernatorial appointment, the federal centre has made some democratic concessions; however, it has also introduced various additional changes watering down the same concessions, and ultimately

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<sup>60</sup> N. Petrov, "Federalism", in M. McFaul, N. Petrov, and A. Ryabov (eds), *Between Dictatorship and Democracy: Russian Post-Communist Political Reform* (Washington, D.C.: Carnegie Endowment for International Peace, 2004), 213-238, at 228.

<sup>61</sup> Through Law 'On the Order of the Formation of the Federal Federation Council', No. 113-FZ, 5 August 2000. One representative is appointed by the subject's legislature and one from the executive - the latter generally a Kremlin-backed governor, if not directly appointed by the president of the Federation (see below). The same year that governors were excluded from the Federation Council, they were included in a newly-established body, the State Council (Presidential Decree 'On the State Council of the Russian Federation', No. 1602, 1 September 2000), which however has only a consultative function.

<sup>62</sup> Presidential Decree 'On the Presidential Envoy of the President of the Russian Federation in a Federal Okrug', No. 849, 13 May 2000. The number of districts was increased to eight in January 2010, as the North Caucasus Federal Okrug was separated from the Southern Federal Okrug.

<sup>63</sup> Cashaback, D. "Risky Strategies? Putin's Federal Reforms and the Accommodation of Difference in Russia", *Journal of Ethnopolitics and Minority Issues in Europe*, 3 (2003) 1-31, at 8.

<sup>64</sup> The leaders of Russia's subjects are generally referred to as 'governors'. The leaders of republics have normally had the title 'president', although a 2010 law required the republics' leaders to discontinue its use and replace it with a generic title such as 'head' of republic, as per Law 'On the Amendment of Article 18 of the Federal Law 'On General Principles of the Organisation of Legal (Representative) and Executive Organs of the State Power of the Subjects of the Russian Federation'', No. 406-FZ, 28 December 2010. Article 1 states that the title of a republic's leader 'cannot contain the same words or expressions that constitute the title of the head of state - the president of the Russian Federation'.

<sup>65</sup> On 1 September 2004 Islamic militants took hostage over 1,100 people in a school in Beslan, demanding the withdrawal of Russian troops from Chechnya. The fighting between the militants and the Russian security forces led to the death of 334 people.

<sup>66</sup> 'Speech at the Enlarged Government Meeting with the Government and Heads of the Regions', 13 September 2004, [http://archive.kremlin.ru/eng/speeches/2004/09/13/0000\\_type82912type82913\\_76667.shtml](http://archive.kremlin.ru/eng/speeches/2004/09/13/0000_type82912type82913_76667.shtml)

<sup>67</sup> Williams (*supra*) however argues that Shaimiev has remained highly influential figure in Tatarstani politics.

<sup>68</sup> For example, 34 regional leaders were replaced only between May 2008 and October 2010 under Medvedev. *Vedomosti*, 'Medvedev i Voevody' [Medvedev and the Governors], 30 September 2010.

combining appointment with elections. The new arrangements, through the use of various legal technicalities, enable the centre to effectively control who leads the regions.<sup>69</sup>

Forth, under Putin there has been a tendency for governors to be absorbed into the (oft-cited) ‘power vertical’, particularly, since the mid-2000s, through their recruitment into the ranks of the ruling party, United Russia.<sup>70</sup> Membership of United Russia has become instrumental for political advancement and various other benefits in Russia society,<sup>71</sup> thereby creating the conditions for the co-optation of ethnic and regional leaders through patrimonial links. Finally, six ethnicity-based autonomous okrugs were merged with predominantly Russian regions in the period 2005-2008,<sup>72</sup> and justified in on the grounds of socio-economic equality and optimisation of regional management.<sup>73</sup> Safeguards relating to the preservation of the cultural and linguistic distinctiveness of the minorities affected were included in regional legislation, and the former ‘autonomous okrugs’ – post-merger simply referred to as ‘okrugs’ – retain a ‘special status’, although the expression has been criticised for having no meaning under Russian law.<sup>74</sup>

Re-centralisation has not been met without resistance from Tatarstan. For example, Tatarstan has vehemently opposed the reform of the education system initiated in 2007, which has reduced the autonomy of regions in devising the part of the curriculum devoted to minority languages, history and culture.<sup>75</sup> N>r has centralisation always been incremental and unidirectional. A new treaty between the centre and Tatarstan, adopted on 26 June 2007 (and valid for 10 years), in some respects represents an anomaly in the overall movement towards centralisation.<sup>76</sup> It includes, *inter alia*, a requirement for candidates to the republic’s

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<sup>69</sup> As part of the measures used to placate mass public protests triggered by accusations of vote rigging in the 2011 Duma elections, gubernatorial elections were reinstated in early 2012. Yet a ‘municipal filter’ was introduced, requiring candidates to have the support of least 5% of their subjects’ deputies (or, for independent candidates, to collect the signatures of at least 0.5% of the region’s population). This system has created a tendency for opposition candidates to be excluded from the electoral process. Legal reform in 2013 further introduced the option for subjects’ legislatures to cancel direct elections and instead opt for a presidential appointment of governors. This measure was justified on the basis of the volatile ethno-political situation in some regions (primarily the North Caucasus), where, it was suggested, gubernatorial elections could cause ethnic tensions to flare up. When elections do take place, Kremlin-backed candidates are more likely to win, given the administrative resources at their disposal.

<sup>70</sup> R. Isaacs, and S. Whitmore, “The Limited Agency and Lifecycles of Personalized Dominant Parties in the Post-Soviet Space: The Cases of United Russia and Nur Otan”, *Democratization* (2014) 21(4) 699-721, at 207.

<sup>71</sup> M. Laruelle, *In the Name of the Nation* (New York and Basingstoke: Palgrave Macmillan, 2009), at 151-2. Even though the party’s popularity has declined, it remains unchallenged. See for example Russian Public Opinion Research Center (VTsIOM), 27-3-2014. ‘Reiting Putina: Novaya Vysota’ [Putin’s Ratings: A New Height], <http://wciom.ru/index.php?id=268&uid=114759> (accessed 2 February 2015).

<sup>72</sup> Five mergers affected six ethnic regions: Komi-Permyak autonomous okrug (AO), Evenk AO, Taimyr AO, Koryak AO, Ust-Orda Buryat AO and Agin Buryat AO.

<sup>73</sup> ACFC, Third Report submitted by the Russian Federation, 9 April 2010, ACFC/SR/III(2010)005, p. 98.

<sup>74</sup> O. Oracheva and A. Osipov, “Territories of ‘Special Status’ in Russia: The Ethnic Dimension”, *Journal of Communist Studies and Transition Politics*, 26 (2) (2010), 212–232. On the mergers, see also C.C. Artobolevskii, O.I. Vendina, E.S. Gontmakher, N.V. Zubarevich and A.V. Kynev, *Ob’edinenie Sub’ektov Rossiiskoi Federatsii: Za i Protiv* [Merging the Subjects of the Russian Federation: For and Against] (Moscow: INSOR, 2010); and Bowring (2010), *supra*.

<sup>75</sup> See F. Prina, “Localism or Centralism? Education Reform in Russia and Its Impact on the Rights of National Minorities”, *Cambrian Law Review* 42 (2011) 113-130.

<sup>76</sup> Bowring (2010), *supra*.

presidency to be fluent in both Tatar and Russian,<sup>77</sup> and Tatarstan's right to establish relations with foreign states. At the same time, it has been argued that the Tatar national movement has been effectively emptied of meaning.<sup>78</sup> For example, despite the victory in the constitutional court noted above (on the teaching of Tatar and Russian 'in equal measure'), in practice the amount of teaching of, and through the medium of, Tatar, has incrementally decreased since the 2000s.<sup>79</sup>

The shrinking of territorial autonomy and the resulting limitations in the promotion of Tatar interests indicate a tendency for law and policy for the protection of minority rights to be treated as having primarily a symbolic, rather than an instrumental, role.<sup>80</sup> For example, in relation to language legislation, it has been suggested that relevant legal provisions – such as those declaring regional languages co-official alongside Russian at the level of republics – never intended to be fully implemented, but merely to fulfil a symbolic function.<sup>81</sup> Indeed, according to UNESCO most such languages were under threat in 2010 – from 'vulnerable' to 'severely endangered'.<sup>82</sup> Meanwhile, the reduction of regional autonomy tends to impact upon the preservation of languages and cultures, including through measures such as mergers and the reduction of independent policy-making at the regional level. Yeltsin and Putin's presidentialism and patrimonialism, while often employed with different aims, are characterised by the same flexibility and tendency to bend the rules to accommodate the leadership's priorities; these might, or might not, coincide with regional or minority interests.

### Gagauzia

Gagauzia provides another example of post-Soviet flexible arrangements that enabled the avoidance of conflict – with autonomy granted through the 1994 Law 'On the Special Juridical status of Gagauzia (*Gagauz Yeri*)' (hereinafter the 'Autonomy Statute').<sup>83</sup> The small region of Gagauzia, located in the south of Moldova, is populated primarily by Gagauz (82.1% of its population according to the 2004 Moldovan census – the last for which data are available),<sup>84</sup> as well as Bulgarians (5.1%), Moldovans (4.8%), Russians (3.8%) and

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<sup>77</sup> Article 2(5). This article was included despite judgements of the Russian Constitutional Court relaxing requirements for leaders of regions to speak titular languages. See RCC, Judgement No.12-P, 27 April 1998, and RCC, Judgement No. 260-O, 13 November 2001; see also Prina (2015), *supra*.

<sup>78</sup> H. Faller, *Nation, Language, Islam: Tatarstan's Sovereignty Movement* (Budapest: Central European University Press, 2011).

<sup>79</sup> Prina (2015), *supra*; K. Zamyatin, "An Official Status for Minority Languages? A Study of State Languages in Russia's Finno-Ugric Republics", *Uralica Helsingiensia* 6 (2014).

<sup>80</sup> A. Osipov, "Implementation Unwanted? Symbolic vs. Instrumental Policies in the Russian Management of Ethnic Diversity" *Perspectives on European Politics and Society*, 13 (4) (2012) 425–442.

<sup>81</sup> Zamyatin (2014), *supra*.

<sup>82</sup> C. Moseley (ed), *Atlas of the World's Languages in Danger*. 3rd edition (Paris: UNESCO, 2010), available at <http://www.unesco.org/languages-atlas/> (accessed 14 April 2015).

<sup>83</sup> Law No. 344-XIII, 23 December 1994.

<sup>84</sup> The results of the 2014 census were still not available at the time of writing. For data from the 2004 census, see 2004 Population Census, 'Demographic, National, Cultural and Language Characteristics'. Available at: <http://www.statistica.md/pageview.php?l=en&idc=263&id=2208> (accessed 21 April 2015).

Ukrainians (3.2%).<sup>85</sup> Within Moldova as a whole, in 2004 Gagauz amounted to 4.36% of the population.<sup>86</sup>

Moldova's post-Soviet national identity has oscillated between 'Romanist' and 'Moldovanist' tendencies, with the absence of agreement even on the seemingly basic issue as to the name of the state language: 'Romanian' – implying closer links to Romania – or 'Moldovan'. Romanist and Moldovanist tendencies broadly overlap with more or less pro-Western or pro-Russia orientations. Moldova's post-Soviet 'de-institutionalization' and 're-institutionalisation' (in the sense Hughes and Sasse give to the expressions) was characterised, in the early 1990s, by a drive to favour the titular group.<sup>87</sup> Thus, Moldovan (often pro-Romania) and Gagauz nationalist movements diverged, with parallel processes of cultural awakening,<sup>88</sup> although Gagauz nationalism might arguably have been primarily fuelled by the assertiveness of the titular group – through what has been aptly described as 'reactive nationalism'.<sup>89</sup> Indeed, Gagauzia, like Transnistria, has been implacably opposed to rampant Romanisation; and, like Transnistria, it is mostly a russified region.<sup>90</sup> The Gagauz's 'own' nationalist tendencies and acquired elements of Russianness have overlapped forming intricate patterns, often pro-Russian and pro-Communist.<sup>91</sup> While the representatives of minorities in Moldova have been generally fluent in Russian, which was employed as *lingua franca* during the Soviet period, they have frequently had low levels of knowledge of Romanian/Moldovan.<sup>92</sup> Russian has been the main language of communication of the Gagauz

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<sup>85</sup> And 0.9% 'others'.

<sup>86</sup> In the 2004 census 75.81% of the population self-identified as Moldovan, 8.35% as Ukrainian, 5.95% as Russian, 2.17 % as Romanian, 1.94% as Bulgarian and 1.32% as 'other' (including Roma). The 2004 census did not include data from Transnistria.

<sup>87</sup> Hughes and G. Sasse (2002. "Conflict..."), *supra*, at 231.

<sup>88</sup> In 1989 a Gagauz cultural club was established in Comrat, which later developed into the political organisation *Gagauz Halki*. See King, *supra*, at 215; and C. Neukirch, "Autonomy and Conflict Transformation: The Case of the Gagauz Territorial Autonomy in the Republic of Moldova", in: K. Gal (ed.), *Minority Governance in Europe* (Budapest: LGI/ECMI, 2002), 105-123, at 109.

<sup>89</sup> J. Chinn and S. D. Roper, "Ethnic Mobilization and Reactive Nationalism: The Case of Moldova", *Nationalities Papers* 23(2) (1995) 291-325.

<sup>90</sup> C. King, *supra*, at 211-213.

<sup>91</sup> I. Katchanovski, "Small Nations but Great Differences: Political Orientations and Cultures of the Crimean Tatars and the Gagauz", *Europe-Asia Studies* 57(6) (2005), 877-894. The political orientation of Gagauzia has tended to favour Communist or independent candidates. Yet after 2001, when the Communist Party won the national elections, relations with the Communist Party became less amicable, as the latter attempted to reduce the autonomy of the region. S. Wöber, *Making or Breaking the Republic of Moldova? The Autonomy of Gagauzia*, European Diversity and Autonomy Papers (Bolzano/Bozen: EURAC, 2013), at 15. In the 2010 Moldovan parliamentary elections 59.9% of votes cast in Gagauzia went to the Communist Party, down from 77.8% in the previous elections. The 2012 elections to the People's Assembly in Gagauzia saw the election of 25 independent candidates, 8 candidates from the Communist Party, and 3 from the Liberal-Democratic Party of Moldova. See "Itogovyte Rezultaty Vyborov v Narodnoe Sobranie Gagauzii" [Final Results of the Elections to the People's Assembly of Gagauzia], 24 September 2012, Gagauzia Autonomous Territorial Unit official site, <http://www.gagauzia.md/newsview.php?l=ru&idc=390&id=3751> (accessed 17 April 2015). In the March 2015 elections for governor of Gagauzia, victory went to pro-Russia (and Russia-supported) candidate Irina Vlah. See Teleradio Moldova, "New Governor of Gagauzia, Irina Vlah, Invested", 15 April 2015, available at <http://www.trm.md/en/politic/in-gagauzia-are-loc-investirea-in-functie-a-noului-guvernator-al-regiunii-irina-vlah/> (accessed 17 April 2015).

<sup>92</sup> Limited progress has been made in expanding the knowledge of the state language among the citizenry since independence. See for example ACFC, Third Opinion on Moldova, 11 December 2009, ACFC/OP/III(2009)003, §27.



regional authorities,<sup>93</sup> and most of Gagauzia's schools have continued to operate in Russian, with no school teaching the full school curriculum in Gagauz. Thus, Moldova's pronounced Romanist tendencies of the late 1980s and early 1990s – with the introduction of 'Moldovan' as the country's sole official language<sup>94</sup> and calls for Moldova's unification with Romania – led to widespread alarm in Transnistria and Gagauzia, ultimately leading to Transnistria's separation from the rest of Moldova in 1992.

Gagauzia represents an highly exceptional case in Eastern Europe and the post-Soviet space, by which territorial autonomy was granted by law to an ethnic group. As such the resulting autonomy arrangements have been generally treated as a positive example,<sup>95</sup> particularly in light of the Transnistrian 'frozen conflict' next door. In 1994 Chisinau

and Comrat (Gagauzia's capital) managed to reach basic consensus on a legal framework,<sup>96</sup> with hardly any international mediation.<sup>97</sup> According to the Autonomy Statute, changes to the legislation governing the region may be amended only through the vote of a three fifth majority in the Moldovan parliament.<sup>98</sup> Gagauzia's local parliament is the People's Assembly (*Halk Toplu\_u*), consisting of 35 deputies with law-making powers in the spheres of education, culture, local budget and territorial administration.<sup>99</sup> The People's Assembly can participate in devising Moldova's policies and the Governor of Gagauzia (*Ba\_kan*) is also a member of the central government.<sup>100</sup> In the event that the Moldovan legislative and administrative authorities infringe the rights of the autonomous region of Gagauzia, the latter can refer the matter to the Moldovan Constitutional Court.<sup>101</sup>

However, Protsyk argues that autonomy was granted to Gagauzia under substantial (internal and external) pressure to resolve mounting tensions in the region. It occurred at a time when the Moldovan state was in a weak, politically uncertain position given the recent transition from Soviet Union republic to independent state. As the central authorities became stronger, Gagauz autonomy has been weakened rather than institutionalised.<sup>102</sup> Legal provisions on the distribution of competences between the centre and the autonomy have remained vague,<sup>103</sup>

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<sup>93</sup> Ibid, §118-9.

<sup>94</sup> The Moldovan Constitution stipulates at Article 13(1) that the state language of the country is 'Moldovan', written in the Latin alphabet. The 1989 Law on Languages, adopted shortly prior to the dissolution of the USSR (and still in force) provides that Russian is the language of 'inter-ethnic communication' (Article 3).

<sup>95</sup> P. Järve, "Gagauzia and Moldova: Experiences in Power-Sharing", in M. Weller and B. Metzger (eds), *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice* (Leiden: Brill, 2008).

<sup>96</sup> Neukirch, *supra*, at 110; S. D. Roper, "Regionalism in Moldova: The Case of Transnistria and Gagauzia", in J. Hughes and G. Sasse (eds), *Ethnicity and Territory in the Former Soviet Union: Regions in Conflict* (London and Portland, OR: Frank Cass, 2002), 101-122, at 117-118. The Moldovan Constitution recognises Gagauzia as an 'autonomous territorial unit having a special statute' (Article 111(1)).

<sup>97</sup> Wöber, *supra*, at 13.

<sup>98</sup> Article 111(7), Moldovan Constitution.

<sup>99</sup> Articles 7, 11 and 12, Autonomy Statute. The executive authority of Gagauzia is the Executive Council (*Bakannik Kometeti*) (Articles 16-18).

<sup>100</sup> Article 14(4), Autonomy Statute.

<sup>101</sup> Article 12(3)(4), Autonomy Statute. In turn, Article 12(6) states that Gagauz provisions that are in conflict with the Moldovan Constitution will be declared null.

<sup>102</sup> O. Protsyk, "Gagauz Autonomy in Moldova: the Real and the Virtual in Post-Soviet State Design", in M. Weller and K. Nobbs (eds), *Asymmetric Autonomy and the Settlement of Ethnic Conflicts* (Philadelphia: University of Pennsylvania Press, 2010), 231-251; see also Roper, *supra*, at 118.

<sup>103</sup> Despite the adoption of new legislation since 1994, such as the 1998 Code of Gagauzia (see below).

and subject to differing, contrasting interpretations.<sup>104</sup> The central authorities have passed a proliferation of legislative acts that are not fully in line with the Autonomy Statute, or without consideration for the special arrangements foreseen by law for Gagauzia.<sup>105</sup>

I refer to four such instances. First, 1998 amendments of the 1991 Moldovan Law on Political Parties and Socio-Political Organisations introduced the requirement for a party to have a minimum of 5,000 members from half of Moldova's districts, with at least 150 members in each, in order to be registered; this made it impossible for ethnic Gagauz parties to function.<sup>106</sup> This law was superseded by a new Law on Political Parties, adopted in 2007, which retained similarly restrictive provisions concerning membership.<sup>107</sup> Further, the 2007 law directly prohibits the establishment of political parties on the basis of ethnic origins.<sup>108</sup> Second, Article 111 of the Moldovan Constitution, added in 2003 and entrenching the autonomy status of Gagauzia, has however failed to strengthen it: pursuant to the said provision, the Moldovan government is to guarantee the conformity of Gagauz legislation with Moldovan law, despite the Authority Statute's (above-mentioned) stipulations on Gagauzia's authority to legislate independently.<sup>109</sup> Third, the Moldovan Law on Territorial-Administrative Organisation of 30 December 1998 raised widespread concern in Gagauzia, when it introduced provisions on the nomination of a prefect in each administrative unit of Moldova (including Gagauzia). Although the law did not foresee that the prefect would have the authority to interfere in regional affairs, the new position would assure central supervision of the regions – an arrangement that seems incompatible with regional autonomy;<sup>110</sup> this law was however repealed in 2001.<sup>111</sup> Fourth, the scope of the Autonomy Statute was restricted by the Moldovan Constitutional Court on 6 May 1999, when it declared unconstitutional its Article 20(2), stipulating that the People's Assembly can submit recommendations to the president of Moldova on the appointment of judges in Gagauzia.<sup>112</sup> These measures have caused the scope of autonomy arrangements to shrink, while effectively placing Gagauzia in a position not dissimilar from Moldova's ordinary districts.

Meanwhile, there have been scarce efforts to implement the provisions of the Autonomy Statute,<sup>113</sup> due to what has been called a 'weak sense of obligation or commitment' by

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<sup>104</sup> ACFC (2009, Third Opinion on Moldova...), *supra*, §33; 178.

<sup>105</sup> Protsyk, *supra*; Järve, *supra*; Neukirch, *supra*, at 114.

<sup>106</sup> I. Osonian and O. Protsyk, *Ethnic or Multi-Ethnic Parties? Party Competition and Legislative Recruitment in Moldova*, ECMI Working Paper No. 47 (Flensburg: ECMI, 2010), at 7.

<sup>107</sup> While making them slightly less stringent: 4,000 members overall (down from 5,000) with 120 members (down from 150) in each county. See Article 8(1).

<sup>108</sup> Article 3(6). These provisions were criticised by the ACFC: ACFC, First Opinion on Moldova, 1 March 2002, ACFC/INF/OP/I(2003)002, §49; and ACFC (2009, Third Opinion on Moldova...), *supra*, §96-7.

<sup>109</sup> Although Article 111 of the Constitution provides that the Gagauz people are to 'independently solve, within the limits of its competence [...] the political, economic and cultural issues' (§1), it further states that '[t]he control over the observance of the Republic of Moldova legislation within the autonomous territorial-unit of Gagauzia shall be performed by the Government under the terms of the law' (§6). See also Protsyk and Rigamonti, at 10-11.

<sup>110</sup> Neukirch, *supra*, at 115; see also United Nations, Department of Economic and Social Affairs (DESA), "Republic of Moldova: Public Administration Country Profile", December 2003.

<sup>111</sup> Though the adoption of the new Law on Territorial Administrative Organisation of 27 December 2001, which abolished prefectures.

<sup>112</sup> Neukirch, *supra*, at 112. The Moldovan Constitution makes no reference to possible recommendations.

<sup>113</sup> Wöber, *supra*, at 19.



Chisinau to devolve major policy competencies.<sup>114</sup> Many of the legal provisions regulating the status of Gagauzia operate primarily at a symbolic level. This applies to, among others: the recognition of the Gagauz people's right to their land;<sup>115</sup> external self-determination (Article 1(4) of the Autonomy Statute); the right of legislative initiative in Moldova's parliament (Article 73 of the Constitution);<sup>116</sup> and the Code of Gagauzia itself – adopted by Gagauzia on 14 May 1998, and serving as a 'constitution' for the region – along with other symbols of 'statehood' such as the Gagauz flag and anthem.<sup>117</sup> One could add to the list the recognition of Gagauz as an official language of Gagauzia (together with Moldovan and Russian),<sup>118</sup> while *de facto* Russian remains predominant in the region. Moreover, persons belonging to the Gagauz minority have limited representation in government structures and the parliament in Chisinau.<sup>119</sup> The capital's coalition governments has arguably paid little attention to Gagauzia's concerns, in the presence of other priorities – particularly European integration and the country's economic difficulties.<sup>120</sup>

Relations between Chisinau and Comrat have remained strained.<sup>121</sup> Among other things, tensions sparked around the 2011 results of secondary school examinations in Gagauzia, when numerous students of Gagauz ethnic background, who had studied in Russian schools, failed to pass the Romanian-language test and were not issued diplomas.<sup>122</sup> The Gagauz authorities proceeded to issue their own diplomas, defying the central authorities – an act that was declared illegal by the Ministry of Education.<sup>123</sup> Moreover, the population of Gagauzia has tended to disagree with the pro-Europe choice of the ruling coalition.<sup>124</sup> While Gagauz (like Tatar) is a Turkic language, and some Gagauz have migrated to Turkey in search of employment, it is the traditional links with Russia that continue to prevail. Russia is overwhelmingly seen as instrumental to address the needs of Gagauzia as an economically

<sup>114</sup> Protsyk and Rigamonti, *supra*, at 11.

<sup>115</sup> As Chinn and Roper point out, the title of Autonomy Statute recognizes both the Gagauz people and their land, by referring to the 'juridical status' of '*Gagauz Yeri*' – or 'Gagauz land'. J. Chinn and S. D. Roper, "Territorial autonomy in Gagauzia" *Nationality Papers*, 26(1) (1998), 87-101, at 98.

<sup>116</sup> The initiative necessitates the support of a parliamentary majority to become law (Article 74 of the Moldovan Constitution). See also Protsyk and Rigamonti, *supra*, at 10.

<sup>117</sup> Neukirch, *supra*, at 114.

<sup>118</sup> Article 3(1), Autonomy Statute. Moreover, the Autonomy Statute provides that one of the vice-chairmen of the People's Assembly is to be selected from among the deputies of non-Gagauz ethnic origins (Article 10(2)).

<sup>119</sup> ACFC (2009, Third Opinion on Moldova...), *supra*, §178; Protsyk and Osoyan note that they are represented, and at times overrepresented, in the Moldovan parliament, yet it is debatable whether Gagauz interests are also represented in Chisinau – both in parliament and government structures. Wöber, *supra*, at 29; 31.

<sup>120</sup> Wöber, *supra*, at 17-20.

<sup>121</sup> There have been additional tensions within Gagauzia, between the regional executive and legislature, for example with regard to the local budget in 2012. There has further been infighting in the main Gagauz political factions. *Ibid*, at 17; 20-21.

<sup>122</sup> Unimedia, 2011. 'Absolvenții din G•g•uzia, care au picat la român•, nu vor primi diplome de BAC [Graduates of Gagauzia who failed Romanian will not receive secondary school diplomas]. Unimedia, 27 July. Available at: <http://unimedia.info/stiri/absolventii-din-gagauzia--care-au-picat-la-romana--nu-vor-primi-diplome-de-bac-37041.html>.

<sup>123</sup> C. Ciurea, *Linguistic Policies of Chisinau in Relation to UTA Gagauzia*, Policy Brief (Chisinau: Institute for Development and Social Initiatives (IDIS) 'Viitorul', 2011).

<sup>124</sup> The ruling coalition's pro-Europe choice is evident from its very name, 'Political Alliance for a European Moldova'. The coalition formed a minority government in February 2015, following the November 2014 parliamentary elections. Previous coalitions were the Pro-European Coalition (2013-2015) and the Alliance for European Integration (2009-2013), which replaced the Communist government (2001-2009).

deprived region, through financial remittances from, and trade with, Russia. While not all Gagauz are opposed to European integration,<sup>125</sup> in a referendum held on 2 February 2014, 97.2% of Gagauzia's residents voted against it, and 98.4% in favour of joining the Russia-sponsored Eurasian Customs Union.<sup>126</sup> Gagauzia's executive has repeatedly requested official documents from Chisinau to be sent to Comrat in Russian rather than in the state language.<sup>127</sup> Thus, Gagauzia can be treated as an example of the Soviet legacy of multinationality – albeit with one *de facto lingua franca* – acting as a constraining factor to the creation of a 'mono-culture' through the exclusive promotion of the titular nationality.<sup>128</sup>

These complexities have affected the smooth functioning of autonomy arrangements. Gagauzia has at times strived to reverse the trend towards the reduction of its autonomy, including by attempting to expand its powers through the adoption of regional legislation.<sup>129</sup> However, it has been generally unsuccessful, given the very restricted scope of action to demand genuine autonomy. The Comrat executive has had to (more or less reluctantly) accept its weak position vis-à-vis Chisinau, and the fact that a belligerent attitude would likely be counterproductive.<sup>130</sup> Indeed, Chisinau can rely on informal mechanisms to control the Gagauz leadership, including through pressure on the judiciary and selective enforcement of the legislation.<sup>131</sup> Particularly telling have been instances of criminal charges brought against governors of Gagauzia by the central government, which have led to the resignation of a governor.<sup>132</sup> In practice the central authorities are in the position to coerce governors into subservience if needed, substituting confrontation with co-optation.<sup>133</sup> The absence of violent conflict despite existing tensions can further be attributed to Gagauzia's financial dependence on the centre.<sup>134</sup> Hence, the autonomy arrangement of Gagauzia, reached thanks to Moldova's institutional flexibility, is however so elastic to be devoid of firm safeguards to assure genuine devolution.

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<sup>125</sup> For example, the Centre 'Pro-Europa' in Comrat campaigns for greater EU integration, and has accused the Gagauz politicians of manipulating public opinion to create anti-EU sentiments. Varshalomidze, T. 'Moldova: EU Integration or Mother Russia?', *Al Jazeera*, 19 May 2014. Available at: <http://www.aljazeera.com/indepth/features/2014/04/moldova-eu-integration-mother-russia-20144296179687342.html> (accessed 21 April 2015). The younger generation also seems to be more open to closer relations with Europe, which explains the dwindling support for the Communist Party in Gagauzia. Wöber, *supra*, at 25.

<sup>126</sup> Minzarari, D. (2014) 'The Gagauz Referendum in Moldova: A Russian Political Weapon?' *Eurasia Daily Monitor*, 11(23). Available at: [http://www.jamestown.org/single/?tx\\_ttnews%5Bpointer%5D=1&tx\\_ttnews%5Btt\\_news%5D=41922&tx\\_ttnews%5BbackPid%5D=228&cHash=b98af3efb331011f77a67fb9674a635c#.U3tlONzpnGA](http://www.jamestown.org/single/?tx_ttnews%5Bpointer%5D=1&tx_ttnews%5Btt_news%5D=41922&tx_ttnews%5BbackPid%5D=228&cHash=b98af3efb331011f77a67fb9674a635c#.U3tlONzpnGA).

<sup>127</sup> Wöber, *supra*, at 26.

<sup>128</sup> Hughes and Sasse (2002, "Comparing ..."), *supra*.

<sup>129</sup> Ibid, at t 114. Protsyk and Rigamonti, *supra*, at 9.

<sup>130</sup> Ibid, at 13. For example, an opposition candidate was elected to governor in 2006, Mikhail Formuzal; Formuzal had accused the incumbent, Gheorghii Tabunshchik, of an excessively conciliatory approach to Chisinau, but later himself adopted a similar approach. Ibid, at 12-14.

<sup>131</sup> Ibid.

<sup>132</sup> Dmitri Kroiter resigned in 2002. The charges have involved alleged abuse of power and corruption.

<sup>133</sup> Protsyk and Rigamonti, *supra*, at 12-14.

<sup>134</sup> Protsyk, *supra*. Unlike Transnistria, Gagauzia had also not intended to secede from Moldova. See King, *supra*, at 216-217. The Transnistrian scenario is likely to have also constituted a deterrent to secessionist drives.

## Conclusion

(Post-)Soviet institutions and their flexibility, interacting with socio-political circumstances at the domestic level – particularly presidentialism and patrimonialism in Russia, and a ‘nationalising state’ combined with Gagauzia’s dependence on the centre in Moldova – have provided the conditions for the pre-emption of violent conflict in most instances. This has led to arrangements that include territorial autonomy, bilateral treaties and power-sharing agreements. Among other things, Soviet ethnic institutions have created a proclivity for multinationality based on the coexistence of multiple ethnic groups, which acts to at least partially reign in nationalising projects and the potential imposition of a ‘mono-culture’.

Autonomy arrangements are legally entrenched in Russia and Moldova. Yet, while the law can be ‘part of the solution’ in facilitating the defusing of possible tensions in majority-minority relations, it can also be ‘part of the problem’ when it is overly flexible. Law can fail to protect minorities when it is overly elastic, or can even be interpreted to their detriment. Even when not directly abused, legislation in Russia and Moldova is generally ill-equipped to resolve possible majority-minority disputes given its overly declarative nature. This has led to a generally ungenerous reading of the law, and to informal practices interacting with formal norms in a manner that tends to adversely affect minorities. Laws have an element of volatility given their frequent (and *ad hoc*) amendment, while those minority rights that are enshrined in the law are often confined to simply having a symbolic value given their scarce implementation. Political institutions do not tend to provide essential checks and balances, while the judiciary is not guaranteed the ability to operate free from external pressures. Hence, the same institutional flexibility that has often enabled the peaceful resolution of tensions has also created a legal environment in which minority groups territorially concentrated tend to be deprived of safeguards of their autonomy. While a degree of stability has been reached, it is short of genuine devolution – a situation that acts to constrain the degree of accommodation of minority concerns and regional interests.

Indeed, both Russia and Moldova display a predilection for a state-centric approach. Both Tatarstan and Gagauzia – where ethnic and regional interests have overlapped – have also been characterized by institutional malleability and the use of informal practices. In the case of Tatarstan, elite bargaining between Yeltsin and Shaimiev resulted in the 1994 power-sharing arrangement. Yet Russia’s strong centralizing impulses, particularly under the Putin leadership, have continued to curtail the autonomy of the regions, including Tatarstan. Moldova, in its position of a politically fragile newly-independent state, granted territorial autonomy to Gagauzia, but short of real devolution. Chisinau’s priorities – including its nationalising project, along with security concerns – have sidelined regional Gagauz interests. Thus, the territorial autonomy granted to Gagauzia in 1994 only partially resolved tensions, while principally recasting them in a different form.

In the presence of an institutional design for the management of majority-minority relations, there is however little political will to implement relevant law and policy. The recognition of ethnicity-based territorial formations, and its symbolic value, may have a stabilising effect; this form of territorial autonomy has however stagnated at a point that prevents advancement in the promotion of territorial or cultural autonomy. Symbolic cultural recognition does not

allow minorities to penetrate the political sphere, and effectively participate in policy-making, with regard to autonomy at the regional level and input into decision-making on the country as a whole. Osipov calls this approach a ‘culturalization of the social’,<sup>135</sup> in the sense that cultural notions are applied to a range of socio-political issues linked to ethnicity with a view to maintaining ethnicity outside the domain of politics; this allows for the avoidance of public debates on controversial and potentially destabilising subjects.<sup>136</sup> In a similar vein, the Parliamentary Assembly of the Council of Europe (PACE), in relation to Russia, has referred to the ‘folklorisation’ of minorities – in the sense of minority issues being approached primarily as folklore,<sup>137</sup> rather than cultural (and political) rights *per se*. Meanwhile, the presence of informal practices – including informal means of control – in the two regions suggest that ethnic relations in the post-Soviet space can be best explained from a neo-patrimonialist perspective.<sup>138</sup> Measures affecting Tatarstan (centralization and Russia’s ‘de-ethnicising’ project) and Gagauzia (reduction of its powers as an ethnic minority region) further indicate a drive to dilute territorialised ethnicity. The incremental erosion of ethnicity-based territorial autonomy suggests a gradual shift in the conceptualization of post-Soviet territoriality, with a movement towards its de-coupling from ethnicity in practice, while however maintaining a symbolic link with it.

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<sup>135</sup> A. Osipov, “Non-Territorial Autonomy during and after Communism: In the Wrong or Right Place?” *Journal of Ethnopolitics and Minority Issues in Europe*, 12(1 ) (2013), 7-26, at 17.

<sup>136</sup> *Ibid.*

<sup>137</sup> PACE, ‘Situation of Finno-Ugric and Samoyed Peoples’, 26 October 2006, Doc. 11087. Indeed, a focus on folkloristic festivals can be seen in Russia’s reports to the ACFC, in which lengthy lists feature prominently. For example, see ACFC, Third Report submitted by the Russian Federation, 9 April 2010, ACFC/SR/III(2010)005, at 30-43.

<sup>138</sup> See A. Osipov, ‘Paradigma Tranzita, Neopatrimonializm i Etnicheskie Otnosheniya v Postsovetском Prostranstve’ [The Transit Paradigm, Neopatrimonialism and Ethnic Relations in the Post-Soviet Space], in Yu. Bubnov, V. Mazets, A. Osipov, I. Pushkin, M. Smekhovich (eds), *Etnicheskaya, Yazykovaya I Kul’turnoe Raznoobrazie v Sovremennom Obshchestve* [Ethnic, Linguistic and Cultural Diversity in Modern Society] (Mogilev: Mogilev State University, 2014), 25-30.